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**Introduced by Senator Alquist**

February 22, 2005

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An act to amend and repeal Section 1797.98e of the Welfare and Institutions Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as introduced, Alquist. Emergency medical services fund.

Existing law, the Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act (EMS act), establishes the Emergency Medical Services Authority within the California Health and Human Services Agency to provide statewide coordination of local county EMS programs.

Existing law, authorizes a county to establish an emergency medical services fund for reimbursement of EMS related costs, and authorizes payments from the fund for unreimbursed emergency medical services performed on the calendar day on which the services are first performed and the immediately following 2 calendar days.

Under existing law changes would become operative January 1, 2007, including, but not limited to, a prohibition against payments for services provided beyond a 48-hour period of continuous service to the patient.

This bill will repeal the January 1, 2007, changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1797.98e of the Health and Safety Code,
- 2 as amended by Section 2 of Chapter 524 of the Statutes of 2004,
- 3 is amended to read:

1 1797.98e. (a) It is the intent of the Legislature that a  
2 simplified, cost-efficient system of administration of this chapter  
3 be developed so that the maximum amount of funds may be  
4 utilized to reimburse physicians and surgeons and for other  
5 emergency medical services purposes. The administering agency  
6 shall select an administering officer and shall establish  
7 procedures and time schedules for the submission and processing  
8 of proposed reimbursement requests submitted by physicians and  
9 surgeons. The schedule shall provide for disbursements of  
10 moneys in the Emergency Medical Services Fund on at least a  
11 quarterly basis to applicants who have submitted accurate and  
12 complete data for payment. When the administering agency  
13 determines that claims for payment for physician and surgeon  
14 services are of sufficient numbers and amounts that, if paid, the  
15 claims would exceed the total amount of funds available for  
16 payment, the administering agency shall fairly prorate, without  
17 preference, payments to each claimant at a level less than the  
18 maximum payment level. Each administering agency may  
19 encumber sufficient funds during one fiscal year to reimburse  
20 claimants for losses incurred during that fiscal year for which  
21 claims will not be received until after the fiscal year. The  
22 administering agency may, as necessary, request records and  
23 documentation to support the amounts of reimbursement  
24 requested by physicians and surgeons and the administering  
25 agency may review and audit the records for accuracy.  
26 Reimbursements requested and reimbursements made that are not  
27 supported by records may be denied to, and recouped from,  
28 physicians and surgeons. Physicians and surgeons found to  
29 submit requests for reimbursement that are inaccurate or  
30 unsupported by records may be excluded from submitting future  
31 requests for reimbursement. The administering officer shall not  
32 give preferential treatment to any facility, physician and surgeon,  
33 or category of physician and surgeon and shall not engage in  
34 practices that constitute a conflict of interest by favoring a  
35 facility or physician and surgeon with which the administering  
36 officer has an operational or financial relationship. A hospital  
37 administrator of a hospital owned or operated by a county of a  
38 population of 250,000 or more as of January 1, 1991, or a person  
39 under the direct supervision of that person, shall not be the  
40 administering officer. The board of supervisors of a county or

any other county agency may serve as the administering officer. The administering officer shall solicit input from physicians and surgeons and hospitals to review payment distribution methodologies to ensure fair and timely payments. This requirement may be fulfilled through the establishment of an advisory committee with representatives comprised of local physicians and surgeons and hospital administrators. In order to reduce the county's administrative burden, the administering officer may instead request an existing board, commission, or local medical society, or physicians and surgeons and hospital administrators, representative of the local community, to provide input and make recommendations on payment distribution methodologies.

(b) Each provider of health services that receives payment under this chapter shall keep and maintain records of the services rendered, the person to whom rendered, the date, and any additional information the administering agency may, by regulation, require, for a period of three years from the date the service was provided. The administering agency shall not require any additional information from a physician and surgeon providing emergency medical services that is not available in the patient record maintained by the entity listed in subdivision (f) where the emergency medical services are provided, nor shall the administering agency require a physician and surgeon to make eligibility determinations.

(c) During normal working hours, the administering agency may make any inspection and examination of a hospital's or physician and surgeon's books and records needed to carry out the provisions of this chapter. A provider who has knowingly submitted a false request for reimbursement shall be guilty of civil fraud.

(d) Nothing in this chapter shall prevent a physician and surgeon from utilizing an agent who furnishes billing and collection services to the physician and surgeon to submit claims or receive payment for claims.

(e) All payments from the fund pursuant to Section 1797.98c to physicians and surgeons shall be limited to physicians and surgeons who, in person, provide onsite services in a clinical setting, including, but not limited to, radiology and pathology settings.

1 (f) All payments from the fund shall be limited to claims for  
2 care rendered by physicians and surgeons to patients who are  
3 initially medically screened, evaluated, treated, or stabilized in  
4 any of the following:

5 (1) A basic or comprehensive emergency department of a  
6 licensed general acute care hospital.

7 (2) A site that was approved by a county prior to January 1,  
8 1990, as a paramedic receiving station for the treatment of  
9 emergency patients.

10 (3) A standby emergency department that was in existence on  
11 January 1, 1989, in a hospital specified in Section 124840.

12 (4) For the 1991–92 fiscal year and each fiscal year thereafter,  
13 a facility which contracted prior to January 1, 1990, with the  
14 National Park Service to provide emergency medical services.

15 (g) Payments shall be made only for emergency medical  
16 services provided on the calendar day on which emergency  
17 medical services are first provided and on the immediately  
18 following two calendar days.

19 (h) Notwithstanding subdivision (g), if it is necessary to  
20 transfer the patient to a second facility providing a higher level of  
21 care for the treatment of the emergency condition, reimbursement  
22 shall be available for services provided at the facility to which  
23 the patient was transferred on the calendar day of transfer and on  
24 the immediately following two calendar days.

25 (i) Payment shall be made for medical screening examinations  
26 required by law to determine whether an emergency condition  
27 exists, notwithstanding the determination after the examination  
28 that a medical emergency does not exist. Payment shall not be  
29 denied solely because a patient was not admitted to an acute care  
30 facility. Payment shall be made for services to an inpatient only  
31 when the inpatient has been admitted to a hospital from an entity  
32 specified in subdivision (f).

33 (j) The administering agency shall compile a quarterly and  
34 yearend summary of reimbursements paid to facilities and  
35 physicians and surgeons. The summary shall include, but shall  
36 not be limited to, the total number of claims submitted by  
37 physicians and surgeons in aggregate from each facility and the  
38 amount paid to each physician and surgeon. The administering  
39 agency shall provide copies of the summary and forms and  
40 instructions relating to making claims for reimbursement to the

1 public, and may charge a fee not to exceed the reasonable costs  
2 of duplication.

3 (k) Each county shall establish an equitable and efficient  
4 mechanism for resolving disputes relating to claims for  
5 reimbursements from the fund. The mechanism shall include a  
6 requirement that disputes be submitted either to binding  
7 arbitration conducted pursuant to arbitration procedures set forth  
8 in Chapter 3 (commencing with Section 1282) and Chapter 4  
9 (commencing with Section 1285) of Part 3 of Title 9 of the Code  
10 of Civil Procedure, or to a local medical society for resolution by  
11 neutral parties.

12 ~~(l) This section shall remain in effect only until January 1,~~  
13 ~~2007, and as of that date is repealed, unless a later enacted~~  
14 ~~statute, that is enacted before January 1, 2007, deletes or extends~~  
15 ~~that date.~~

16 SEC. 2. Section 1797.98e of the Health and Safety Code, as  
17 added by Section 3 of Chapter 524 of the Statutes of 2004, is  
18 repealed.

19 ~~1797.98e. (a) It is the intent of the Legislature that a~~  
20 ~~simplified, cost-efficient system of administration of this chapter~~  
21 ~~be developed so that the maximum amount of funds may be~~  
22 ~~utilized to reimburse physicians and surgeons and for other~~  
23 ~~emergency medical services purposes. The administering agency~~  
24 ~~shall select an administering officer and shall establish~~  
25 ~~procedures and time schedules for the submission and processing~~  
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28 ~~moneys in the Emergency Medical Services Fund on at least a~~  
29 ~~quarterly basis to applicants who have submitted accurate and~~  
30 ~~complete data for payment. When the administering agency~~  
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32 ~~services are of sufficient numbers and amounts that, if paid, the~~  
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34 ~~payment, the administering agency shall fairly prorate, without~~  
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14 ~~officer has an operational or financial relationship. A hospital~~  
15 ~~administrator of a hospital owned or operated by a county of a~~  
16 ~~population of 250,000 or more as of January 1, 1991, or a person~~  
17 ~~under the direct supervision of that person, shall not be the~~  
18 ~~administering officer. The board of supervisors of a county or~~  
19 ~~any other county agency may serve as the administering officer.~~  
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24 ~~advisory committee with representatives comprised of local~~  
25 ~~physicians and surgeons and hospital administrators. In order to~~  
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32 ~~(b) Each provider of health services that receives payment~~  
33 ~~under this chapter shall keep and maintain records of the services~~  
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38 ~~any additional information from a physician and surgeon~~  
39 ~~providing emergency medical services that is not available in the~~  
40 ~~patient record maintained by the entity listed in subdivision (f)~~

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2 administering agency require a physician and surgeon to make  
3 eligibility determinations.

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5 may make any inspection and examination of a hospital's or  
6 physician and surgeon's books and records needed to carry out  
7 the provisions of this chapter. A provider who has knowingly  
8 submitted a false request for reimbursement shall be guilty of  
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10 (d) Nothing in this chapter shall prevent a physician and  
11 surgeon from utilizing an agent who furnishes billing and  
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13 or receive payment for claims.

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32 National Park Service to provide emergency medical services.

33 (g) Payments shall be made only for emergency services  
34 provided on the calendar day on which emergency medical  
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36 calendar days, however, payments may not be made for services  
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32 of Civil Procedure, or to a local medical society for resolution by  
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34 (l) This section shall become operative January 1, 2007.